



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF MAY, 1995 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ben Walters, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

Agenda No. 724 was pulled for reconsideration following passage of the Consent Agenda. On a Y-5 roll call, the balance of the Consent Agenda was adopted as follows:

CONSENT AGENDA - NO DISCUSSION

- 698** Cash investment balances April 6 through May 3, 1995 (Report; Treasurer)
- Disposition:** Placed on File.
- 699** Accept bid of Henkels and McCoy, Inc. for arterial streets upgrade project for \$45,260 (Purchasing Report - Informal Quotation)
- Disposition:** Accepted; prepare contract.
- 700** Accept bid of JASCO Construction Services for remodel of 10th floor offices in the Portland Building for \$67,360 (Purchasing Report - Informal Bid)
- Disposition:** Accepted; prepare contract.
- 701** Accept bid of Express-It Delivery Services, Inc. for delivery services for \$33,077 annually for two years (Purchasing Report - Bid 137-A)
- Disposition:** Accepted; prepare contract.
- 702** Accept bid of Marshall Associated Contractors for Beaumont sewer reconstruction project for \$140,509 (Purchasing Report - Bid 141)
- Disposition:** Accepted; prepare contract.

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703 Accept bid of Gelco Services for SE Mill St., 52nd to 56th and SE 60th and Stark sewer reconstruction for \$350,162 (Purchasing Report - Bid 142)

Disposition: Accepted; prepare contract.

704 Accept bid of Courtesy Ford for two 4-wheel drive cab and chassis extended cab with utility service bodies for \$76,545 (Purchasing Report - Bid 144)

Disposition: Accepted; prepare contract.

705 Accept bid of Courtesy Ford for furnishing two 4-wheel drive cab and chassis with utility service body for \$46,806 (Purchasing Report - Bid 145)

Disposition: Accepted; prepare contract.

706 Accept bid of Commercial Affiliates for Portland Building 9th floor recarpeting for \$65,000 (Purchasing Report - Bid 156)

Disposition: Accepted; prepare contract.

707 Vacate a portion of NE Flanders Street between NE First and Second Avenues, under certain conditions (Ordinance by Order of Council; C-9768)

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

708 Vacate the east 20 feet of SE 7th Avenue north of SE Division Place, under certain conditions (Ordinance by Order of Council; C-9868)

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

709 Vacate a portion of SW Virginia Court, under certain conditions (Ordinance by Order of Council; C-9874)

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

Mayor Vera Katz

710 Confirm appointment of Wen Jiang to the Business License Appeals Board (Report)

Disposition: Confirmed.

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711 Authorize the City Attorney to take an appeal from the Judgment of the Circuit Court, entered April 26, 1995, in State ex rel Schrunk and City of Portland v. Pete Johannes Metz, et al., Multnomah County Circuit Court Case No. 9003-01559 (Resolution)

Disposition: Resolution No. 35393. (Y-5)

***712** Authorize Limited Tax Improvements Bonds, 1995 Series A (Ordinance)

Disposition: Ordinance No. 168794. (Y-5)

***713** Accept an \$8,000 grant from Oregon Department of Transportation for overtime funds for helmet and safety belt enforcement (Ordinance)

Disposition: Ordinance No. 168795. (Y-5)

***714** Agreement with the Portland Public School District No. 1 to provide access to the Portland Police Data System (Ordinance)

Disposition: Ordinance No. 168796. (Y-5)

***715** Agreement with the City of Fairview to provide access to the Portland Police Data System (Ordinance)

Disposition: Ordinance No. 168797. (Y-5)

Commissioner Earl Blumenauer

716 Adopt the recommendation of the Bureau of Transportation Engineering (BTE) to accept the Central City Streetcar proposal from Portland Streetcar, Inc. and direct BTE to negotiate a contract for Council consideration (Resolution)

Disposition: Resolution No. 35394. (Y-5)

***717** Designate and assign certain City-owned Office of Transportation property in Block 9, Town of Willsburg, as a public street right-of-way for the Tacoma Street interchange (Ordinance)

Disposition: Ordinance No. 168798. (Y-5)

***718** Contract with Henkels & McCoy, Inc. for \$45,260 to upgrade the street lighting system on various arterial streets (Ordinance)

Disposition: Ordinance No. 168799. (Y-5)

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719 Agreement with the Metro Exposition and Recreation Commission for the installation of banners on street light poles at the Oregon Convention Center (Second Reading Agenda 673)

Disposition: Ordinance No. 168800. (Y-5)

Commissioner Charlie Hales

720 Accept contract with Jim Miller Construction for work at Fire Station 17 site as complete, authorize final payment and release retainage (Report; Contract No. 29422)

Disposition: Accepted. (Y-5)

***721** Contract with Markman, Inc. for \$91,600 for vehicle exhaust extraction systems for six fire stations (Ordinance)

Disposition: Ordinance No. 168801. (Y-5)

722 Contract with R.W. Beck, a Seattle company, for professional computer software design services in the amount of \$13,500 (Ordinance)

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

***723** Contract with Multnomah County to provide two full-time Alternative Community Service crews for \$113,075 (Ordinance)

Disposition: Ordinance No. 168802. (Y-5)

Commissioner Gretchen Kafoury

***725** Minor revision to boundary of the Downtown Business District, slightly reducing the District's size (Ordinance; amend Code Section 6.06.020(B))

Disposition: Ordinance No. 168803. (Y-5)

***726** Amend contract with Central City Concern by increasing the amount of compensation by \$9,752 (Ordinance; amend Contract No. 29556)

Disposition: Ordinance No. 168804. (Y-5)

***727** Contract with the Portland Development Commission for implementation of the HOME Investment Partnership Program in the amount of \$2,275,000 and provide for payment (Ordinance)

Disposition: Ordinance No. 168805. (Y-5)

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***728** Enter into a sublease agreement with Tri-Met for tower space at Mt. Scott (Ordinance)

Disposition: Ordinance No. 168806. (Y-5)

***729** Authorize contract with Jasco Construction Services for remodel of 10th floor of the Portland Building for Office of Finance and Administration Accounting Division and the Hearings Officers in the amount of \$67,360 (Ordinance)

Disposition: Ordinance No. 168807. (Y-5)

***730** Authorize contract with Eastman Kodak Company to purchase a Kodak LionHeart printing system and a Kodak 1392 printer for a total of \$163,010 and a five-year maintenance agreement for approximately \$186,000, without advertising for bids (Ordinance)

Disposition: Ordinance No. 168808. (Y-5)

***731** Authorize contract with McBride Architects for design of Portland Building tile and window repair project for \$22,900 and provide for payment (Ordinance)

Disposition: Ordinance No. 168809. (Y-5)

Commissioner Mike Lindberg

732 Accept completion of the N. Geneva Avenue and N. Arlington Place sanitary sewer extensions construction project and authorize final payment to East Wind (Report; Contract No. 29577)

Disposition: Accepted. (Y-5)

***733** Authorize the City Attorney to continue negotiations for the purchase of twelve permanent sewer easements required for construction of the SE 45th Avenue and SE Harney Drive sanitary sewer system project, begin condemnation proceedings, if necessary, and obtain early possession (Ordinance)

Disposition: Ordinance No. 168810. (Y-5)

***734** Authorize a contract and provide for payment for the Sellwood Basin CSO sump project - Unit 2 (Ordinance)

Disposition: Ordinance No. 168811. (Y-5)

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***735** Contract with Adolfson Associates, Inc. to conduct fish consumption surveys for the Columbia Slough and provide for payment (Ordinance)

Disposition: Ordinance No. 168812. (Y-5)

***736** Contract with Construction Management and Inspection, Inc. to supply qualified construction inspection, engineering and other support personnel upon request (Ordinance)

Disposition: Ordinance No. 168813. (Y-5)

***737** Contract with CMTS to supply qualified construction management, construction inspection and administrative support personnel upon request (Ordinance)

Disposition: Ordinance No. 168814. (Y-5)

738 Call for bids for the construction of 16-inch and 6-inch water mains in SE Madison St., SE 19th Ave., SE Cooper St., SE 80th Ave., SE 87th Ave. and SE Barbara Welch Road (Ordinance)

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

***739** Contract with R2 Resource Consultants for \$101,455 to conduct aquatic habitat inventories (Ordinance)

Disposition: Ordinance No. 168815. (Y-5)

City Auditor Barbara Clark

***740** Add construction of water system to NE Mason Street LID (Ordinance; amend Ordinance No. 168485; C-9879)

Disposition: Ordinance No. 168816. (Y-5)

696 **TIME CERTAIN: 9:30 AM** - Presentation by Fred Meyer, Inc. of proceeds collected from redeemable containers to Sally McCracken of the Oregon Community Foundation for the Homeless Fund (Presentation introduced by Commissioner Kafoury)

Discussion: Commissioner Kafoury acknowledged the success of this program, with support from Fred Meyer, Plaid Pantry and Nature's. She recognized John Gurney and Dan Vollstedt from Fred Meyer and Sally McCracken, Board Chair of the Oregon Community Foundation.

John Gurney, Fred Meyer, Inc., said five Fred Meyer stores are currently involved in the program.

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Sally McCracken, Board Chair, Oregon Community Foundation, said the Foundation is thrilled by this partnership.

Mr. Vollstedt presented Ms. McCracken with a check for \$1,300.

Disposition: Placed on File.

697

TIME CERTAIN: 9:35 AM - Amend Title 17 of the City Code to revise solid waste and recycling collection rates and charges in accordance with the 1995 Extraordinary Rate Review (Ordinance introduced by Commissioner Lindberg; amend Code Chapter 17.102)

Discussion: Commissioner Lindberg said the addition of plastic bottles will significantly expand the curbside recycling program and there will also be a reduction in the garbage rates of \$.40 per month for the average customer, largely due to the expanding market for recyclables. He noted that over 75 percent of Portland households recycle, about the second highest of any city in the country.

Susan Keil, Bureau of Environmental Services (BES), reported on the results of the yard debris study, noting that the amount of yard debris now showing up in the cans has been greatly reduced. Customers last year indicated a strong preference for bi-weekly collection and more educational efforts are planned. The rate reduction results from the higher demand for recyclable materials, a weight drop in the can, lower tipping fees and improved hauler efficiencies. Upward pressures on costs include mild inflation and the addition of plastics to the recyclables collection.

Ms. Keil noted that use of the 32 gallon can is decreasing as more people move to the mini-can. In some areas, where recycling rates are lower than average, staff is going door-to-door to talk to customers about the program.

Ms. Keil described changes in the rate schedule. With the exception of the 90 gallon rollcart, all the rates will go down. The minican is still offered below cost of service, subsidized by higher fees on larger cans. She compared Portland's rates with nearby communities which indicate that the City has the lowest rates in the region although all are very close. Portland's rates also compare very favorably with Seattle and Vancouver.

Mayor Katz asked about the results of going door-to-door.

Jerry Mayberry, BES, said they are seeing quite a trend to go to smaller cans as a result of canvassing efforts.

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Bruce Walker, BES, said the public has indicated a willingness to accept a rate increase in order to recycle plastics. He described the kinds of plastic bottles -- those with necks -- that are recyclable.

Bernice Bagnold, Utility Review Board, said the Public Utility Review Board (PURB) Solid Waste Subcommittee has reviewed these rates.

Bruce Broussard, Chair, PURB Solid Waste subcommittee, said they support this rate proposal and believe the yard debris program is responsive to public preferences and meets Metro and DEQ standards.

David White, Tri-County Council, said the hauling industry is proud of the success of this program, due in part to its hard work and improved collection efficiencies.

Emil Graziani, Executive Director, Garten Foundation, 1189 Rees Hill Rd. SE, Salem, 97306, said his organization, which serves people with severe disabilities, has begun working on installation of the first automatic plastics sorting system. The Foundation also made a long-term commitment to plastics recycling even though it recognizes market demand will go up and down.

Mike Hutchens, Chair of the BES Solid Waste Advisory Committee, said results of the recent yard debris test which indicated there was no significant difference between Portland's every-other week program and weekly programs in the Metro area. The Committee concurs with the recommendation to continue that program with added education and promotion. It also recommends adding plastic bottles to the recycling program and agrees with the rate recommendations. One issue that remains is illegal dumping and the cleanup/nuisance abatement done by the Bureau of Buildings. Currently \$300,000 for the program is funded out of the Solid Waste and Recycling Budget, about 22 percent of the funds received from residential franchise fees. The committee unanimously agrees that the Bureau of Buildings does not expend that amount on illegal dumping cleanup even though the need remains. The Committee supports using residential franchise fees to cover the cost of illegal dumping cleanup but not as a transfer payment to support another department. Those fees could be more legitimately used by BES or passed through as savings to rate payers.

Ms. Keil said they get monthly and quarterly reports from the Bureau of Buildings about their cleanup costs and have made some assumptions about the staff time associated with this activity. The annual cost for cleanup of illegal dumping is about \$60,000. There would be additional expenses for inspections and so forth but even so that is substantially less than the \$300,000 transfer.

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Commissioner Lindberg said he understood that went for nuisance abatement.

Ms. Keil said there would be more costs, such as for inspectors, over and above the contract cleanup amount.

Commissioner Blumenauer said the City is spending a lot more than that.

Ms. Keil said another \$50,000 per year is spent by the Bureau of Maintenance for cleaning up in the rights-of-way.

Commissioner Blumenauer said what he hears from citizens is that the City is not spending enough to pick up trash in the neighborhoods.

Mr. Hutchens said the Committee agrees but believes money that comes out of the residential franchise fees should go to that cleanup.

Commissioner Blumenauer said he is confident that the City is spending that much or more, depending on the way it is accounted for.

Mayor Katz said if the City is accounting for this inappropriately, then it should look to paying for it from the right account. This is something that needs work, perhaps by the Utility Review Team.

Betty Patton, Chair, Recycling Advocates, said last year a study found that every-other week collection of yard debris did not equal the waste diversion capability of a weekly program. In fact, the City was sending twice as much yard debris to the landfill as weekly collection areas. During the past year two test programs -- More Bag for Your Buck and the Twofer program -- were initiated in Portland to try to keep yard debris out of the garbage can. Both proved to be very successful and Recycling Advocates would like to see them expanded to cover all City residents.

Marcele Daeges, Recycling Advocates member, 32 NE 44th Ave., 97213, applauded the expansion of the More Bag for Your Buck program and the addition of plastics recycling. She said one concern is that the rate change moves the cost difference between the minican and 32-gallon can slightly closer. She urged further promotion of the use of the minican.

Jerry Powell, 3345 NE 27th, 97212, said the remaining critical issue is whether the rates are fair. As publisher of a recycling magazine, he said his review of the rate structure shows that garbage franchising can be very profitable. He recommended adoption of an interim rate and expanded recycling program but asked that staff also address, perhaps with PURB, hauler salary and profit levels to see if they are fair.

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Ms. Keil said PURB is a good forum to deal with that and Mr. Powell should address his concerns to the Solid Waste Subcommittee. Staff does a thorough review of hauler operating margins or profit and salaries. They also have guidelines for salaries.

Commissioner Lindberg noted that there is a limit on the rate of return.

Ms. Keil said there is an opportunity to earn the 9.5 percent operating margin if all the efficiency targets are met. The huge increase in the market for the recyclables has obviously dropped more revenue to the haulers' bottom line and the correction occurs in the rate review. Thus the benefits of what has occurred in the previous year are passed back to the customer.

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

REGULAR AGENDA

Commissioner Earl Blumenauer

741 Accept Bureau of Emergency Communications 1994-95 Annual Report indicating activity at the City's 9-1-1 Center during the past year (March 1994 - March 1995) (Report)

Discussion: Commissioner Blumenauer said a million people a day rely on the 9-1-1 system and this report indicates substantial increases in performance in every major area, despite increases in work load. He thanked other bureaus for their cooperation.

Commissioner Kafoury said she is thankful for BOEC's tracking of calls about incidents of domestic violence.

Mayor Katz said the goal is to try to identify how many calls come from one address and to see if these calls can be caught early enough to prevent a disaster from occurring in that home. At this time, however, they are not able to capture that data.

Disposition: Accepted. (Y-5)

Commissioner Gretchen Kafoury

***742** Exempt the new East Portland Community Policing Facility from competitive bidding requirements and enter into a contract with a Developer/General Contractor through an alternative competitive selection process (Ordinance)

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Discussion: David Kish, Director, Bureau of General Services (BGS), noted that last December Council approved BGS' request to purchase land at SE 106th and Cherry Blossom Lane, which clearly appeared to be the best site. Council had indicated then that it wanted the Livable City concepts applied to this three-acre site. Because it is thin and narrow, the architect suggested building a two-story precinct with a small public plaza and a parking garage. The idea was to integrate the Livable City concepts on the remaining piece of property. The architect suggested that the entire project be put out as a design package to enable developers to integrate a project that would include housing or commercial on the site, rather than building the precinct first and developing the rest later. This ordinance allows them to do this. There is a proposal in the Outer Eastside Community plan to rezone the property high density commercial (CX) and the Bureau has allowed developers to submit proposals either for that zoning or for the current residential zoning. The Bureau's preference is for a housing project. They have met with the neighborhood association which suggested several minor amendments which the Bureau finds acceptable.

Mayor Katz asked about the inclusion of a new statement that the neighborhood strongly opposes high density housing. She said she finds that inappropriate.

Mr. Kish said the neighborhood proposed eight criteria for inclusion in the proposal. He did not agree those would be part of the City's proposal but did agree to attach them to the proposal. While BGS generally agrees with them, it does not agree whether or not the site should be housing or what the definition of high density housing is. There is a concern about housing because of traffic and noise, particularly as there is a school across the street. BGS reminded the neighborhood that this property has been vacant for years and, if the City were to sell the other piece, someone could come in and, under the new zoning, build even more housing or commercial under a different proposal. This proposal gives the community a much greater

say as representatives from the neighborhood will serve on the proposal screening committee. However, the ultimate decision will be Council's.

Mayor Katz said she thought this was an inappropriate statement to include in a bid specification.

Commissioner Kafoury agreed as developers might need the higher density to make their proposals economically feasible.

Mr. Kish noted that no land use decision needs to be made.

Tom Waltz, East Portland District Coalition, 1917 SE 122nd Avenue,

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stressed that they are not opposed to residential development but are concerned with how it will fit into the community. He noted that the Target-Safeway project received overwhelming support from the Hazelwood Neighborhood Association and there should be no problem replicating that same support. He requested a week's delay to give neighbors a chance to talk to Commissioner Kafoury and staff.

Commissioner Kafoury asked what the purpose of the delay would be, adding that she has the same concerns as Mayor Katz about inclusion of the statement she cited.

Mr. Waltz said it would provide an opportunity for a larger group to meet with her and Mr. Kish. There are 20 stakeholders who should be brought into the process in order to create a successful project.

Mayor Katz said there would still be time to talk about the design and appropriateness after the City went ahead with the RFP.

Commissioner Blumenauer said this is drafted in a way that will allow significant input and it would be better to get this out as soon as possible and then spend more time on the substance.

Mr. Waltz said certainly his objective is to foster good will but he wanted to express an interest in bringing other people into the process.

Liza Goldblatt, President, Oregon College of Oriental Medicine, said the College fully supports the precinct and is basically satisfied with the draft RFP for the portion of land next to it. They are concerned, however, that neighbors have not had sufficient time to consider the expanded development plan. She said while some do not want more housing or commercial development, others are open to it. The College supports the one week delay in order to hold a community meeting with Commissioner Kafoury, as many feel this has been put on a fast track. The College and neighborhood association are concerned also about parking and traffic.

Mary O'Leary, 1343 SE 115th, representing the Hazelwood Neighborhood Association, said they are not opposed to housing, only to high-density housing.

Commissioner Kafoury moved to delete the reference to neighborhood opposition to high-density housing in the RFP.

Mayor Katz said she could not find that recommendation.

Mr. Kish said the recommendations are not a legal part of the ordinance.

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Harry Auerbach, Deputy City Attorney, said it could be moved as a directive to the Bureau.

Commissioner Lindberg seconded and, hearing no objection, the Mayor so ordered.

Mayor Katz said the City is excited to have this be more than just a police facility and she is convinced that a project will be found that will work for everybody.

Commissioner Blumenauer said a commitment has been made to make this a showpiece but time is of the essence to get the police facility on line quickly. Each week's delay on the housing will drive the cost up as well.

Commissioner Hales said the density issue is not a legitimate one, as this site is already zoned R1 today. While the term high density scares people, how the housing fits into the neighborhood is the legitimate question. The decision about density on the site was made through the zoning ordinance and is likely to be affirmed in the Outer Southeast plan.

Commissioner Kafoury said she is willing to discuss the substance of the project with the neighborhood. She noted that including neighborhood people on the selection committee is unusual.

Mayor Katz said after its experience with the Walnut Park facility, the City's goal is to build community, not just police facilities. Adding other community players as well as housing on this piece of property is very exciting and she is convinced they will have a first-rate project.

Disposition: Ordinance No. 168817. (Y-5)

724

Direct the Bureau of General Services to pursue all reasonable responses to the Request for Proposal for temporary office space for employees located in City Hall and to bring to Council for approval an ordinance accepting a lease for property (Report)

Discussion: Commissioner Kafoury asked if Council could direct BGS to add a statement that the City would consider proposals for smaller sub units, rather than the whole amount.

Mr. Kish said he prepared a secondary bid proposal based on conversations with Council about the City Hall project.

Commissioner Kafoury noted that it already had been passed on Consent and asked if Council had to take official action on it.

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Mr. Kish said he did not know. He said they looked at several options but found there are significant operational costs and difficulties to having people spread all over town. They recommend that the City place everyone in one place and go out with the bid specification the way it is. The only group that fit comfortably separately was the Office of Neighborhood Associations but he is not sure that is the effective thing to do.

Mayor Katz asked if Council agreed. Hearing no objections, she said it did not seem as if any further action was needed.

Commissioner Blumenauer said he was in favor of looking at choices but it is not that big a deal to him.

Commissioner Kafoury said if the City found two spaces that were significantly cheaper than a single big one that would be worthwhile.

Mr. Kish said the primary concern was that Council members and people like the City Attorney's office remain downtown.

Mayor Katz said breaking it up might make sense if it is more cost effective.

Commissioner Kafoury moved to reconsider Item 724. Commissioner Blumenauer seconded and, hearing no objections, the Mayor so ordered.

Commissioner Kafoury moved to include Alternative B, as described in the report from BGS, included in the bid.

Mayor Katz said she did not like the reference to "located throughout the City" as she did not think the intent was to spread people all over the place.

Commissioner Kafoury said if they got a wonderful deal in the Lloyd Center or Central Eastside it would be foolish to preclude consideration.

Commissioner Blumenauer said both the Lloyd Center and North Macadam are within the Central City plan area. How do we define central business district?

Commissioner Kafoury said she does not think it is a good idea for Council members to be in separate locations.

Mayor Katz said that if locations can be found within the Central City that are cheaper they should be considered.

Mr. Kish said downtown space is obviously the most expensive. He said

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it would be very difficult to calculate the operational costs of running back and forth from downtown to the Lloyd Center or North Macadam, for instance.

Commissioner Blumenauer said he would volunteer to calculate that.

Mr. Kish said they will bid it that way and come back with the best analysis they can.

Mayor Katz said it may be that the State Office Building makes more sense in terms of the City's ability to manage but they do not know that yet.

Commissioner Blumenauer said the City might get a better deal if downtown buildings know they are competing with the Central Eastside and Lloyd District.

Commissioner Kafoury moved to substitute Alternative B as the preferred option. Commissioner Blumenauer seconded and, hearing no objections, the Mayor so ordered. (Y-5)

Disposition: Accepted as amended.

***743** Authorize contract and provide payment for Printing & Distribution remodel project (Previous Agenda 684)

Discussion: Mr. Kish said Commissioner Hales raised some questions last week which the Bureau has since addressed.

Disposition: Ordinance No. 168818. (Y-5)

Commissioner Mike Lindberg

744 Amend Title 17 to revise sewer and drainage rates and charges in accordance with the fiscal year 1995-96 sewer user rate study (Ordinance; amend Code Chapters 17.35 and 17.36)

Discussion: Commissioner Lindberg said while they had projected an annual rate increase of 13 percent over the next five years, this has been cut to 12.5 percent for each year. While this may seem like a small change, it really does add up. Any increases in program areas above what was set in the financial plan have been offset by equal reductions in other areas.

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

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***745** Extend contract with Oregon Health Division to provide laboratory services and provide payment (Ordinance; amend Contract No. 29298)

Disposition: Ordinance No. 168819. (Y-5)

746 Prescribe the rates and charges for water and water-related services by the City of Portland during the fiscal year beginning July 1, 1995 to June 30, 1996 and fix an effective date (Ordinance)

Discussion: Cay Kershner, Council Clerk, noted that an amendment had been distributed.

Commissioner Lindberg said the projected water rate increase was 6.7 percent; this is only 3.4 percent, a 50 percent reduction in what had been anticipated. Over the last five years, rates have averaged 7.1 percent and now, for the next five years, they are looking at increases of less than five percent. However, people remain concerned about utility rate increases. A recent survey shows that Portland water rates are the lowest of any water agency in the region. He described Bureau efforts to keep rates low.

Mike Rosenberger, Director, Water Bureau, said while the rate increase is very modest and residential rates are extremely competitive, the budget that supports it continues the staffing complement of 500 people and is financially strong. The priorities set by Council, such as the MBE/WBE program and conservation efforts, continue despite the puny rate increase.

Bernice Bagnold, Utility Review Team, said they appreciated the Bureau's willingness to look at two issues: 1) customer growth and its relationship to population and 2) use of reserves over the coming five years. Those two elements contributed to the lowering of the expected rate increase. PURB's primary interest lies in reviewing the regional supply plan alternatives this summer and their effect on rates.

The Clerk noted the amendment. Hearing no objections, the Mayor so ordered.

Disposition: Passed to Second Reading, as amended, May 24, 1995 at 9:30 a.m.

747 Authorize the Bureau of Water Works to purchase equipment and software for the Automatic Meter Reading Pilot Project in an amount not to exceed \$148,547 from Sensus Technologies, Inc. without advertising for bids (Second Reading Agenda 693)

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Discussion: Commissioner Lindberg said Commissioner Blumenauer raised some issues last week which they wish to pursue further.

Disposition: Continued to May 24, 1995 at 9:30 a.m.

City Auditor Barbara Clark

748 Assess property for private plumbing sewer connection contracts of the Private Plumbing Program for period ending April 25, 1995 (Hearing; Ordinance; P0009)

Discussion: Dan Vizzini, Auditor's Office, said no remonstrances were filed either for this item or the following one.

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

749 Assess property for sewer system development contracts of the Mid-County Sewer Project for the period ending April 25, 1995 and non Mid-County for the period ending April 26, 1995 (Hearing; Ordinance; Sewer System Development Charges Z0601 through Z0603)

Disposition: Passed to Second Reading May 24, 1995 at 9:30 a.m.

At 11:38 a.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 17TH DAY OF MAY, 1995 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Michael Holstun, Senior Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

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TIME CERTAIN: 2:00 PM - Review revisions to Purchasing Manual to include rules of procedure for administration of Good Faith Efforts in City construction contracts and guidelines for professional, technical and expert service contracting (Ordinance introduced by Commissioner Blumenauer)

Discussion: Commissioner Blumenauer said this is a collaborative effort among a number of bureaus in order to have a level playing field and make sure all bureaus are working in concert.

Carleton Chayer, Purchasing Agent, said this is also a way to provide easily assessable information to bureaus and professional services providers.

Craig Johnson, Bureau of Purchases, said this responds to City personnel who sought guidance about professional service contracting. He described the process, which incorporated input from numerous sources. The response has been enormously positive.

Mayor Katz said this is another step forward in codifying the City's Good Faith efforts.

Madelyn Wessel, Deputy City Attorney, said this is a continuation of everything the City has been working on. There is a proposed addition that will give bureaus more flexibility in using the guidelines.

Mr. Chayer said some concerns were raised about the ability bureaus would have to innovate. The intent was not to exclude innovation. He suggested adding Item C to the Directive statement giving the Purchasing Agent authority to make appropriate modifications.

Commissioner Blumenauer moved the amendment. Commissioner Lindberg seconded and, hearing no objections, the Mayor so ordered.

Commissioner Blumenauer said the ordinance does not demand that value has to be the sole, or even the primary objective. The language

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that appears on Page 7 is a pretty good compromise that bureaus have indicated they can live with although not everyone in the private sector is completely satisfied.

Mayor Katz said Mr. Chayer should keep an eye on that to see if that issue should be revisited.

Disposition: Passed to Second Reading, as amended, May 24, 1995 at 2:00 p.m.

REGULAR AGENDA

751

Adopt the Airport Way Secondary Infrastructure plan as an administrative guide to extending public infrastructure in certain portions of Columbia South Shore (Resolution introduced by Mayor Katz and Commissioner Blumenauer)

Discussion: Robert Glascock, Planning Bureau, said this plan is meant to serve as an administrative guide to how services in private and public facilities can be extended into the eastern section of the Columbia South Shore, from the main trunk lines into the development sites. It is does not require any amendments to the Comprehensive Plan. He described the public process, including a hearing by the Planning Commission, which unanimously adopted the Plan with one recommended amendment responding to a specific development plan by the Portland Habilitation Center. The Planning Commission's transmittal letter to Council comes with a map which shows the proposed D Street, east of NE 148th, not passing across the southern portion of the Center's property. The Planning Commission was also informed that the Portland Office of Transportation (PDOT) may do more work on specific alignments and adopt those as part of the Comprehensive Plan. That would occur in a separate review process.

Roger Millar, OTAK Inc., said they were retained by PDOT, PDC, the Water Bureau and BES to create the Airport Way Secondary Infrastructure plan for the area between NE 138th and NE 185th which, prior to the construction of Airport Way, had no infrastructure. That area is being developed to serve as a major eastside employment center with the goal of creating 20,000 jobs by the year 2010. He noted that the primary impetus for this development was the construction of Airport Way, a \$35 million investment by the City. The Secondary Infrastructure Plan attempts to answer the question of what comes next to serve the development likely to occur. This plan implements the policies and plans for the Airport Way Urban Renewal area, builds on existing public investment and provides a framework for future investment. He noted that the Columbia South Shore area was annexed to the City during the early 1980's and an urban renewal plan was

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adopted for the area in 1986, resulting in \$80 million of public investment, including \$12 million of tax increment financing and a related \$1.6 million of commercial and industrial development and over 2,000 jobs to date. He said natural resources protection and development plans have also been created and work is underway on cultural resources protection and marketing plans.

Mr. Millar said no changes to the current land use plan or zoning maps are proposed. A likely development scenario for the 607 acres zoned IG2 and EG2 was developed and they also looked at phasing, which is meant to be a guide for City bureaus in terms of capital investment. However, the actual phasing is dependent on market conditions and the desire of property owners. The brokerage community estimates an absorption rate of about 30 acres a year in the area, leading to a 20-year build out. In working with the stakeholders, staff realized that the land likely to develop first was that requiring the least investment because it was immediately adjacent to Airport Way and the utility systems were already in place. They looked at five year increments, based on the development potential of the land. He described the extensive public participation process undertaken and said staff tried hard to include everyone's concerns in the document, even though all were not totally satisfied. Regarding transportation facilities, the goal was to provide a connected system of through streets wherever possible. They were constrained by wetlands, railroads and the desire not to have truck traffic on Marine Drive. For that reason there are some cul-de-sacs in the project but over 70 percent of the facilities along Airport Way are going to be connected to continuous through streets. Where cul-de-sacs did occur they were connected up to the system through bicycle and pedestrian facilities. The plan identifies about \$15.5 million of improvements in the transportation area.

Commissioner Lindberg asked if this is on top of the \$80 million already spent.

Mr. Millar said yes. He said they also took regional transportation plans into consideration. Nine bridge crossings would be enhanced and one new crossing is proposed. Storm drainage and pollution reduction facility improvements are estimated to cost \$3.4 million. For sanitary sewers, \$2.6 million in improvements are proposed with \$1.7 for the water supply. Utilities have agreed on colocation in a number of places and to underground facilities.

Mr. Millar concluded by discussing the cost benefit analysis. He said the total cost of infrastructure investment is \$38 million, including capital and operating costs over a 20 year period. They see \$300 million in accrued benefits in the first five years of development and a total of \$1.4 billion in benefits at the end of 20 years. That works out to \$36 in

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benefit for every dollar of infrastructure investment and approximately \$4.00 of public tax revenue for every dollar of infrastructure investment. They estimate approximately 13,300 direct, and 20,000 indirect, permanent jobs in this area.

Commissioner Lindberg asked about wellfield protection regulations, noting that sometime back the State was considering special requirements to capture spills on roadways to prevent them from going into the ground.

Mr. Millar said they met extensively with an inter-bureau group which has been working on those regulations. The stormwater and drainage facilities plan incorporates the latest thinking of that group. All facilities include pollution reduction facilities which provide means to prevent any accidental spills from reaching the Slough or the groundwater.

Commissioner Lindberg asked if stormwater runs over streets and picks up pollutants, is there a prohibition against its going into a natural waterway.

Mr. Millar said the public road runoff is all captured with catch basins and diverted into containment facilities. They have proposed that the private development adjacent to the roadway also participate in this regional facility as well. The regional facilities were sized to accommodate a certain amount of private development stormwater.

Commissioner Hales said he is still troubled enough by the number of cul-de-sacs that creation of an additional one seems jarring. He asked if there is any other alternative to simply eliminating that section and creating another cul-de-sac on D Street.

Mr. Millar said they looked at several alternatives. PDOT is going to study this some more and perhaps come back with an amendment to the Transportation Element of the Comprehensive Plan that would adopt these alignments. They are considering, rather than a cul-de-sac at that property, taking a 90 degree turn south and connecting to Airport Way. There is another property line right there and they could split the seam to make that work.

Commissioner Hales said that is a good suggestion.

Mr. Millar said it is not ideal but, given the very substantial benefits of the development occurring on that site, is a good compromise solution.

Commissioner Hales said he likes that. Noting that both proposed and optional street improvements are shown, he questioned whether all the

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proposed cul-de-sacs will be needed, depending on how these properties are developed. Would they automatically be included in an LID or some other financing plan if there is a development pattern that may not need them all.

Mr. Millar explained how staff, working with the property owners, determined how D Street could best be configured. This document includes the development plans of a number of property owners but it is up to them to bring specific projects to the City. The City then responds and the dialogue starts there. He said he would be very surprised if development ends up looking like what is in the document.

Commissioner Hales said he is not uncomfortable with that. He asked if, when implemented, there are portions of the plan that are mandatory, not optional.

Paul Shirey, Office of Transportation, said they intend to incorporate D and E streets into the Transportation Element of the Comprehensive Plan. Unfortunately, the east end of D street has a cul-de-sac because the City is not allowed by policy and other physical constraints to connect to Marine Drive.

Commissioner Hales asked about Mason and the north/south streets.

Mr. Shirey said Mason has been permitted by the City and plans have been approved for its alignment. The rest of those secondary streets are the cul-de-sacs. The north/south streets are unimproved roadways now where they are proposing bike lanes, sidewalks and other improvements.

Commissioner Hales said he worries that the City would get a proposal that would complete only part of the street and then get into an argument about cul-de-sacs versus completion of the planned street network. That apparently is not going to be a problem given the way this is being constructed.

Mr. Millar said that is the goal of taking Mason and E through the process. Those are the areas where they need some certainty.

Mr. Shirey said PDOT is looking at innovative ways beyond the LID system currently used to finance public infrastructure. Those additional ways include transportation impact fees, system development charges, reimbursement programs, etc. He said the Columbia Corridor Association endorsed the plan with a strong caution not to overburden the land so that it is uncompetitive with other comparably zoned land. He said he is sure everyone can agree to that.

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Mayor Katz said how it is financed is critical to keeping those costs down.

Mr. Glascock said credit should be given the consultant and service bureaus for planning the infrastructure outside the environmental zones wherever possible. The cultural resources protection plan will come to Council in August.

Connie Lively, Portland Development Commission, said this was a joint effort between PDC, the Water Bureau, PDOT and BES and represents one of the last pieces of planning for infrastructure development in this area. They are pleased to get to the point where the grid is all laid out and they know where they are going with the infrastructure. They expect to achieve the highest level of development possible here.

Michael Robinson, 900 SW 5th Ave., Suite 2300, representing the Portland Habilitation Center, said they support the Planning Commission recommendation as embodied in Rick Michaelson's May 9, 1995 letter recommending adoption of the plan.

Ann Nichol, Columbia Corridor Association, said they support the plan as anything that reduces uncertainty increases development prospects. She emphasized that this must be a flexible plan because no one knows what the market will be or what a project will need in terms of infrastructure.

Art Spada, area resident, objected to phasing and to road access to his property. He said his property is the most visible and developable in the area and should not be artificially excluded from the market in favor of his neighbor. Regarding road access, he said his traffic consultant concluded that a connection to Airport Way is warranted. He said the City had promised him access earlier but is now rebuffing him. The cul-de-sac identified as H Street should have connected to Airport Way -- right-in and right-out access from that street would not hurt anyone. He said Ms. Lively told him that phasing does not matter. But if it does not matter, why put it in.

Mr. Shirey said they would like to see this property develop as soon as possible and believe they are doing everything they can to make this happen.

Mr. Millar said phasing is intended to help bureaus determine when infrastructure will be needed and budget for capital improvements. Mr. Spada's land requires some infrastructure specific to that land. When he brings in his project, the City will respond. There is nothing that prevents him from developing prior to 2005.

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Mayor Katz asked if the capital construction time line can be adjusted if his project is ready to go.

Mr. Millar said yes.

Mr. Spada said he does not understand why the City is putting his property in a later phase when the sewer line is already there and he is preparing the property for development.

Mr. Millar said phasing has nothing to do with development.

Mr. Shirey said in 1991 the City adopted an access policy designed to prevent too many driveway cuts on to Airport Way. The proposed cuts are located where maximum access can be provided to adjacent land. The access Mr. Spada wants did not seem appropriate as it is on fill and on a curve at the top of a bridge, presenting sight distance and safety issues. They have consistently said that when Mr. Spada is ready to develop, they will consider a right-in, right-out.

Commissioner Hales asked if there was a median island there, typical for Airport Way at that point.

Mr. Millar said it is a 45-mile per hour roadway on a grade in a curve on about 40 feet of fill. Mr. Spada is filling adjacent to this so there will be less of a difference. Mr. Spada's traffic consultant says it can be done safely while the City's traffic engineers do not. Again, staff is telling him to bring the proposal in and then staff will consider it. There is no public road in the plan.

Commissioner Blumenauer said this is another significant step and he is pleased at how smoothly the pieces came together. The answers given Mr. Spada indicate the flexible way City bureaus are prepared to respond. He said he appreciates Commissioner Hales flagging the connectivity issue and believes the proposed compromise, getting rid of at least one cul-de-sac, is a step in the right direction.

Disposition: Resolution No. 35395. (Y-5)

Commissioner Charlie Hales

752

Grant appeal of Children's Oncology Services of Oregon, applicant, and overrule Hearings Officer's decision to deny a conditional use and adjustment to construct a Ronald McDonald House on the southwest corner of the Emanuel Hospital campus at the intersection of N. Commercial and N. Knott Streets (Findings; Previous Agenda 611; 94-00859 CU AD)

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Discussion: Commissioner Lindberg said he did not attend the initial hearing and was not planning to vote on the findings.

Susan McKinney, Planning Bureau, said after the findings were submitted by the prevailing party, additional findings were submitted by the non-prevailing party which apparently were distributed to Council members. A recent LUBA decision said if an item is presented to decision makers, even after the record is closed, that item would have to be formally rejected or become part of the record.

Mr. Holstun, Senior Deputy City Attorney, said regarding the letter submitted by Lee Perlman, the Code does not provide for the non-prevailing party to submit proposed findings. They nevertheless went to Council members and under current case law unless Council specifically rejects this letter it would become part of the record and might raise uncertainty about issues appealable to LUBA.

Commissioner Hales moved to reject the alternate findings submitted by Lee Perlman, dated April 28, 1995. Commissioner Kafoury seconded and the motion carried. (Y-4)

Commissioner Hales then moved adoption of the findings.

Disposition: Findings Adopted. (Y-4)

753

Grant appeal of Trails at Mt. Scott, Inc., applicant, and overrule Hearings Officer's decision to deny a request for change of conditions of approval for a planned unit development, subdivision and planned unit development review with a variance, environmental review, adjustment to Johnson Creek Plan District, and excavation/fill review, located west of SE 112th Avenue, north of Flavel Street (Findings; Previous Agenda 612; 94-00739 SU PU EN AD EF)

Discussion: Duncan Brown, Planning Bureau, noted the addition of condition E on page 24 referencing the stormwater flow rate. This was added as a result of Council's directive.

Disposition: Findings Adopted. (Y-3)

754

Deny appeal of Costco Wholesale Corporation, applicant, and uphold Hearings Officer's decision to deny a conditional use to locate a new store in the Northwest Industrial Sanctuary at 2825 NW Yeon Avenue and 2345 NW Nicolai Street (Findings; Previous Agenda 572; 94-00603 CU)

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Discussion: Susan McKinney, Planning Bureau, said suggestions were received from the non-prevailing party yesterday in response to the findings prepared by the prevailing party.

Mr. Holstun, Senior Deputy City Attorney, noted that these were not submitted directly to Council so this does not raise the same problem that occurred with the Ronald McDonald case. Unless Council wished to review those suggestions, no action is required.

Mayor Katz asked if the intent was to distribute them to Council.

Ms. McKinney read the cover letter submitted by Costco with suggested deletions to the proposed findings which the City Attorney believes clearly go beyond the actual findings discussed by Council. She said it was not copied to Council members.

Mayor Katz said she did not review the findings as carefully as she had hoped to do.

Commissioner Blumenauer suggested continuing the vote on these findings until Thursday, May 18 at 2:00 p.m.

Commissioner Hales again moved to reject the proposed modifications to the findings offered by Costco. The motion carried. (Y-4)

Disposition: Continued to May 18, 1995 at 2:00 p.m.

At 3:25 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 18TH DAY OF MAY, 1995 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Blumenauer, Hales, Kafoury and Lindberg, 5.

OFFICERS IN ATTENDANCE: Cay Kershner, Clerk of the Council; Ben Walters, Deputy City Attorney; and Officer Chuck Bolliger, Sergeant at Arms.

754 Deny appeal of Costco Wholesale Corporation, applicant, and uphold Hearings Officer's decision to deny a conditional use to locate a new store in the Northwest Industrial Sanctuary at 2825 NW Yeon Avenue and 2345 NW Nicolai Street (Findings; Previous Agenda 572; 94-00603 CU)

Discussion: Commissioner Hales moved to adopt the findings. Commissioner Lindberg seconded.

Mayor Katz said she had reviewed the findings and was satisfied with them.

Disposition: Findings Adopted. (Y-5)

***755** **TIME CERTAIN: 2:00 PM** - Grant permits to provide Agency Requested Transportation services in the City (Ordinance introduced by Commissioner Kafoury)

Discussion: Dennis Nelson, Manager, Bureau of Licenses, noted that he had distributed a substitute Exhibit B for both items. These two items request permits for Agency Requested Transportation (ART) and Specially Attended Transportation (SAT) categories of limited permits issued under the Taxicab Code. The general issue here is that Tri-Met, the administrator of the Medicaid transportation program, is concerned about its ability to provide reasonable and adequate service to its customers. The Taxi Board recommends that the permit requests for 14 vehicles under ART and 10 under SAT, all for Paratransit, be granted. In addition, since the Taxi Board meeting, one company, New Rose City, has indicated it is now working with Tri-Met. This would bring a total of 19 vehicles available for ART. The Taxi Cab Board is concerned and wants to ensure there are sufficient vehicles to serve Tri-Met's needs and the needs of all citizens. The primary issue is that the City recommended a cap for Paratransit of 10 SAT and 20 ART vehicles. The Bureau is also requesting that the Taxi Board be given authority to increase the number of permits if additional ones are needed.

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Nancy Thomas, Manager of the Medical Transportation Program, Tri-Met, explained how the Medicaid ride program operates and how service is contracted. She said the providers licensed by the City are not necessarily contractors with this program. She said the Taxi Board has asked her to justify the number of providers needed for this program. She said, first, the program does not provide service to the community at large and the objectives are not simply to have enough supply to meet demand. If the City limits supply, providers are assured they will receive an adequate amount of business and there is no incentive to keep costs down or improve service. Taxi companies provide other services to the general public which makes them unavailable at times and affects Tri-Met's ability to provide adequate service. She asked Council approve the current applications without limiting the number of vehicles for each provider. She also requested that the City reexamine its need to license the providers for this program and consider its impact on Medicaid transportation.

Commissioner Lindberg asked if she wanted the City to approve all the current applications, without limiting the number.

Ms. Thomas said there are four applications and one provider wants 10 of each type license. Smaller providers also requested licenses.

Commissioner Lindberg asked if she wanted Council to approve all the requests.

Ms. Thomas said yes, the total request is for 24 additional licenses. The Medicaid transportation program is averaging about 62,000 rides a month and taxis cannot serve all its clients.

Commissioner Blumenauer noted that she raised the question of whether the City should be licensing these vehicles at all.

Ms. Thomas said Tri-Met questions licensing those who only provide service for this program and do not serve the general public.

Commissioner Kafoury said the Taxi Board has been asked to address that issue. Under the current Code, capacity has to be increased if Ms. Thomas is to run her program effectively.

Ms. Thomas urged that in the meantime additional applicants be processed quickly so that Tri-Met can get more vehicles into service. These applications have been waiting for 90 days and Tri-Met has had problems finding appropriate transportation.

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Commissioner Lindberg asked if she wanted the applications in the pipeline, over the 20 recommended by the Taxi Board, approved without limits.

Ms. Thomas said yes, the number of eligible clients in the tri-county area has increased dramatically in two years. The population is getting older and there will be more and more of a need.

Frances McCole, 5615 N. Willamette Blvd., 97203 described an incident with her mother to illustrate failures in the current system. She said the cab companies serve cash customers first and let the others wait. She said this service should be opened to all and there should never be a cap.

Rolando Lopez, Communications Officer, Assist Transportation Medical Taxi, Inc., criticized Tri-Met's dispatch system, contending that servers are often given incorrect notification schedules and addresses. He said the current number of vehicles is adequate if the system is improved.

David Sugarman, Attorney for Assist Transportation, said Assist Transportation is an ambulance company, not a taxi company and an active provider under the blanket purchase agreement. He noted that Council visited this issue 14 months ago and everyone on Council understood that this was a relatively narrow niche that was to be met by limited providers. Now Tri-Met is asking that the doors be thrown open to allow anyone to be a provider. He said there is a public interest in keeping a regulated industry operating in such a way that deregulation does not drive everybody out of business. He said there is also a significant dispatch problem which should be fixed before any more permits are granted. He also questioned Tri-Met's statistics which are tri-county-wide and overlook the fact that about two-thirds of the Medicaid program participants go by bus. Wheelchair transport makes up about five percent of the total. He asked for denial of the permits and retention of the cap.

Commissioner Lindberg said when he hears the numbers of eligible people and the number of rides per month, he wonders if the regulations are preventing services from being provided. He said this does not sound like a narrow niche to him.

Mr. Sugarman said a large percentage, however, go by bus or cab and only about five percent need assisted transportation.

Jeff Bachrach, attorney representing ParaTransit, requested removal of the cap from the permit. It does not make sense as there is a huge demand and supply does not come close to meeting it. While the number of taxicabs is limited, ParaTransit is a special permit and

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special permit rules do not call for vehicle limitations. There is no sound public policy reason for it. The floodgates are not going to open if the cap is lifted and, if they are, Tri-Met has the ability to control that. The taxicab companies could apply for special permits dedicated to Tri-Met but Paratransit should not be hamstrung in its ability to serve Tri-Met. Rather than guessing, permits should be issued with no cap.

Michael Glonner, Project Manager, ParaTransit Services, said they are a non-profit organization operating in the special needs transportation area. He described the services they provide and asked for removal of the cap.

Mr. Bachrach cited a quote of Dennis Nelson's indicating that this issue results from the taxicab industry's leaving big vacuums in the market and stating that it was not the mission of the Board to protect the industry from having other providers move into those markets.

Bob Lucas, representing Radio Cab Company, 1200 SW Main, said there is a big demand but the big numbers are being served by a lot of alternate sources, mainly bus transport. Radio Cab has noticed that calls for its accessible vans have actually gone down over the last six to 12 months. He said there is a basis for the cap, citing Code regulations which require that no limited transportation facilities be added until it is first demonstrated that reasonable service is not being provided. As demand is justified, all the players can come in for permits but it makes sense to regulate the numbers. This is a competitive situation and there should be some balance. He said Radio Cab is also concerned about the omission in the ordinance of the requirement for ADA equipment compliance. Otherwise it is grossly unfair to the taxi companies, which are required to have 20 percent of their vehicles in ADA compliance. The cap is justified both by the rules and by the demonstrable need at this time.

George Van Hoomisen, Owner, Broadway Cab, 1734 NW 15th, said Broadway Cab does not currently participate in the Medicaid transportation service because Tri-Met has given it two unacceptable alternatives. The first would require compliance with Tri-Met's existing contract, putting them at a severe cost disadvantage with their competitors, who do not meet those contract terms. Tri-Met knows this and does not enforce the policies. The second option is to sign the contract but not comply with the terms as their competitors do. Paratransit has been given a third option not available to the cab companies. It complies with the requirements but charges a far higher rate than the cab companies, which are limited in what they can charge under City Code. Broadway is willing to provide the same service as Paratransit under the same terms and conditions. It will meet the

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requirements if Tri-Met will pay those rates or it will provide service at cab rates if Tri-Met requires all providers to meet the same requirements.

Commissioner Kafoury asked which requirements are not being met.

Mr. Van Hoomisen said one requirement was for random drug testing. That requirement was taken out in the most recent version. The version they were asked to sign in February called for \$1 million in liability which none of the cab companies have. He believes that was taken out in another version. The current version still says that drivers can have no "at fault" or motor vehicle violations in the last three years. Tri-Met has informed him that they are working on changing that also but to date those are the sorts of things they have had to agree to. He said their largest competitor, Radio Cab, is not complying with all these requirements and has made it perfectly clear to Tri-Met that they do not intend to comply.

Jim Thompson, Radio Cab, said they had the same concerns that Broadway Cab had regarding complying with all the demands in Tri-Met's contract. He said Ms. Thomas told him to go ahead and sign the agreement and they would work to change some of the requirements. His major concern is that clients be appropriately transported. He said right now they charge the same rates for sedan transportation and accessible transportation. Paratransit charges more and has no rate cap. He also charged that Paratransit is incorrect when they say they do not operate within the City.

Mr. Nelson said Paratransit did operate in the City for a while and was told to stop until they got their permit. There was some confusion at first but he believes they have now stopped.

Commissioner Blumenauer asked if Tri-Met had been paying them for rides within the City.

Ms. Thomas said they have not been operating within the City since April 24.

Commissioner Hales noted different levels of scrutiny the City may impose -- from taxation, regulation of practices, licensing and, finally, franchising, as they do with cabs. He said he has not heard any reasons why that level of intervention is merited when there is another agency which contracts with these companies.

Mr. Nelson said two years ago the Bureau brought to Council a comprehensive review of the policy, which called for a continued method of regulation called need and convenience. The City controls market

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entry, safety, rates, customer service and convenience. That policy is what the City operates under now, based on the rationale that taxicabs are an integral part of the public transportation system. In return for regulation, cab companies are given a certain amount of market protection and that is the issue here.

Commissioner Hales said yes, but this is a contracting service with another agency.

Mr. Nelson said one option is not to regulate those who serve Tri-Met. That does have a public policy impact on the City's transportation network. Broadway and Radio Cab have both indicated that serving this market provides one of the cab industry's largest customer bases. If that market is flooded, it cuts back on the companies' ability to also serve the short fares, where they lose money. If this is deregulated, they are at an extreme disadvantage and the Taxi Board was very clear that some support should be given the industry and also that people get to their appointments and not be left sitting.

Commissioner Hales said that is Tri-Met's concern.

Mr. Nelson said the City shares that concern.

Commissioner Blumenauer said but it is not the City's job.

Mr. Nelson said the Taxi Board would like to help solve the problems with this service but they do not want to foul up Tri-Met. That is why they are recommending the cap. He said he is still not convinced today that the problem has been defined.

Commissioner Blumenauer asked why it is the City's job to define the problem.

Mr. Nelson because the Taxicab Board can control the number of vehicles available to serve the public.

Commissioner Blumenauer, referring to Mr. Van Hoomisen's testimony about rates, asked if it would save Tri-Met money to deal with the cab companies.

Mr. Nelson said he assumes so although people with certain types of medical conditions may need something beyond a cab.

Commissioner Hales said it is unclear to him why the City is involved here as delegating this to Tri-Met seems a better alternative. He suggested either not capping this or delegating it to the responsible agency, Tri-Met.

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Mayor Katz asked Mr. Nelson why he stated he did not know what the problem was.

Mr. Nelson said the data presented by Tri-Met indicates a tremendous increase in ridership and there is anecdotal information about service problems but he still has not heard which specific categories of service are lacking, whether wheelchair accessible vehicles or cabs. Just throwing more cars in the system will not solve the dispatch problems.

Mayor Katz asked him to address ADA requirements and what happens if the cap is removed.

Mr. Nelson said the Taxi Board found that ART providers need to abide by the same rules as the cab companies for wheelchair accessible vehicles. There is some argument whether ParaTransit's wheelchair accessible vehicles, currently in service, should have to immediately be brought up to the ADA standard or whether the higher standard applies only to newly-purchased or leased vehicles. The downside to removal of the cap is that throwing more vehicles at the problem may not solve it. At the same time, it cuts down on market share for the cab companies currently trying to provide these services.

Commissioner Hales what happens when there are complaints?

Mr. Nelson said Tri-Met handles them.

Commissioner Hales said if Tri-Met gets complaints and cannot do anything about complaints because it cannot solve the problem in the way it sees fit, why should the City create such a situation?

Commissioner Lindberg said this is an ancient regulatory system which the City tries to patch up every year. Also some of the Taxi Review Board members have a vested interest.

Commissioner Blumenauer said the problem is Tri-Met's, not the City's. If the price advantage is there and the cabs can deliver, then Tri-Met has a strong financial incentive to use them. He suggested granting the permits without the cap and reviewing this again later.

Commissioner Hales moved to amend the ordinance to incorporate exhibit B and to remove the cap. Commissioner Kafoury seconded and the motion carried. (Y-5).

Mr. Nelson asked if Council wanted the Taxi Board to consider formal exemption from taxicab regulations for people providing services under the Tri-Met contract.

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Council members said yes.

Disposition: Ordinance No. 168820 as amended. (Y-5)

*756

Grant permit to provide Specially Attended Transportation services in the City (Ordinance introduced by Commissioner Kafoury)

Discussion: Commissioner Hales moved to amend the ordinance to include the new Exhibit B and to remove the cap.

Disposition: Ordinance No. 168221 as amended. (Y-5)

757

Appeals of Portland Taxi Cab Company, Radio Cab Company, Rose City Taxi Company and the Independent Cab Drivers Right to Work Association against Taxicab Board of Review Order No. 16.40.120-003, Regulations Establishing Vehicle, Driver and Operating Standards adopted April 5, 1995 (Hearing; Report introduced by Commissioner Kafoury)

Discussion: Mr. Nelson said the Taxicab Board, following its periodic review of existing standards, made recommendations for changes. A public hearing was then held and a compromise document is now before Council. One of the major issues is vehicle age limitation. One of the biggest complaints they hear is not about vehicle safety but about vehicle condition. The Board recommended a 10-year age limit because of the strong correlation between a vehicle's age and condition, as well as safety standards and emissions. Other cities throughout the country have much more stringent age limitations and the Board believes 10 years is very reasonable. He noted letters of support from a number of business leaders. A second issue is limiting drivers to no more than 14 hours at a time. This is an extremely lenient standard and one the Board strongly believes is needed. These standards place the burden of providing safe vehicles and drivers on the companies without prescriptive activity by the City.

Commissioner Hales asked if an exceptions process was considered if people with older vehicles were willing to pay for an inspection.

Mr. Nelson said the question arose about who would do the inspection. They are trying to keep the administration as low as possible and not get into an appeals process.

Commissioner Lindberg asked if there was any estimate about the economic impact. Will it put 20 people out of work, for instance?

Mr. Nelson said there was some testimony as to a negative impact on some drivers and companies. He said the question is whether the City

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should keep standards low so that people can survive economically. They also heard testimony that it is cheaper to maintain newer vehicles.

Mayor Katz said another option is raising rates for customers.

Mr. Nelson said they will bring a rate review to Council soon.

Commissioner Lindberg told Mr. Nelson that he had contradicted himself. First you said you wanted to be results-oriented and now you say you want the 10-year standard because administratively it costs less.

Mr. Nelson agreed about the contradiction and added that he had only recently concluded that this is a reasonable standard and will have a positive impact on service.

Commissioner Blumenauer said he would prefer to deal with this as part of the rate process, particularly since it would not go into effect until January, 1997.

Mr. Nelson said he would have no objection but would like to have the hours of service considered today. He noted that Radio Cab itself was not the appellant, as indicated in the report title. Instead, an individual board member had filed an appeal using Radio Cab letterhead.

Mayor Katz said she believes Council will recommend that vehicle age not be incorporated into these rules and asked those testifying not to address that issue.

Commissioner Blumenauer moved to amend this to delete the age requirement and hear it as part of the rate review. Commissioner Kafoury seconded and the motion carried. (Y-5)

Art Palmer, New Rose City Cab, said he presumes the hours limit came from Broadway Cab which hopes to manipulate Council to make new laws for its own benefit. He said it is unethical for Broadway Cab's owner, Mr. Van Hoomisen, to serve on the Taxicab Board of Appeals. He said cab drivers who drive their own cabs should be exempted from the 14-hour limit.

Kalauu Davis, 1533 NE Alberta, 97211, cited his 1994 tax return to indicate how little net income he receives after paying business expenses. If his hours of service are limited, he will be pushed into poverty. He noted that Police officers are allowed to work double shifts and there has not been a single accident in the City due to fatigue.

Ann Witte, attorney representing Rose City Cab, opposed the standards

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for drivers enacted here. She said these regulations do not respond to any perceived complaints by the public concerned about assaults or dishonesty on the part of cab drivers. Nothing more than a driver's license should be required. Minorities are more likely to have the types of convictions cited in the standards simply because they have been discriminated against. There are several technical flaws also. For instance, criminal offense is not defined and other sections conflict with State law or do not make sense.

Chad Debman, Northeast Portland businessman, said he is troubled that a person who has committed a crime would be ineligible for a job as this flies in the face of rehabilitation policies. Rose City Cab would like to give opportunities to such people and there is no reported incident of anyone with a difficult past robbing or raping their customers.

Pauline Nelson, Manager, Ground Transportation, Portland Airport, said she brought up the issue of limits on hours but, due to time limitations, Mr. Van Hoomisen did the networking. She said she sees the same drivers asleep in line at the airport who they are unable to wake. A 14-hour work day is reasonable for drivers and promotes driver safety.

Mayor Katz asked how she knew those people had been working for 14 hours.

Ms. Nelson said from her periodic checks.

Mayor Katz asked if the Airport had documentation.

Ms. Nelson said they have just recently begun written documentation.

Commissioner Lindberg asked if there is another way to solve the problem, such as warning individuals.

Ms. Nelson said the Airport has a warning, sanction and appeals process but they do not want to keep a cab driver from working. They generally notify the company.

Patricia Montgomery, Manager, Radio Cab Co., said she has had one call from Ms. Nelson about a driver but has not generally found this to be a problem. There is no record of drivers having accidents because of the long hours and this would limit the independent drivers.

Commissioner Blumenauer asked if there are people who routinely work more than 14 hours a day.

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Ms. Montgomery said not routinely, but she cannot really say.

Commissioner Blumenauer asked how much hardship this would impose if passed.

Ms. Montgomery said some people might go home for a few hours. This would be like forcing people who own their own businesses to only work certain hours.

Mayor Katz asked how one would track those hours.

Mr. Nelson said there would be no easy or automatic way to do that. They do have someone information from the Airport.

Commissioner Lindberg asked how they would know if someone worked and then went home and came back.

Mr. Nelson said the Board set this as a limit but asked the cab companies to impose it. He said truckers, for instance, have much stricter standards.

Frank Chiotto, Portland Taxi Company, said the City Attorney's office in an earlier memo stated opposition to all these regulations. Secondly, the cab drivers themselves should be more involved in trying to find solutions to these problems.

Tesfi Halligan, Portland cab driver, opposed the limit on hours and said driving a cab allows him to see his children during the workday.

Patrick Fessler, President, Portland Region of Independent Drivers, said the needs of drivers are not being heard and a tremendous amount of rage has built up among the drivers. Those who work the streets are more isolated but those at the airport get together and resolve their problems. A huge volume is coming through the airport and a lot of business interests want access to it. He said he previously worked at the airport but then took the job with Radio Cab because he feared business interests would take over and he would not have a place at the airport anymore. He said he used to work 16 hours a day for three days and that allowed him time to be with his family. He made as much working three days then as he now makes working six days on the streets, which he also finds more stressful.

Abdul Barkee, Assistant Director, Stay Clean Corporation, a treatment center in Northeast Portland, said if there is a correlation between hours and safety, the City should have the statistics to show that. Also, anything that restricts people from gainful employment should be carefully considered.

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Commissioner Lindberg asked if there are restrictions prohibiting drivers from having criminal records.

Mr. Nelson said there are revised requirements for driver and criminal records. They are almost identical to the old ones and only clarify what has been done for the last 10 years.

Commissioner Lindberg asked if people with past criminal activity were prevented from taking a job in this industry.

Mr. Nelson said staff looks at driving and criminal records and those who have violations must present evidence that they have been rehabilitated. The new regulations are clearer, partly because there have been some appeals. People in some categories, such as convicted pedophiles and sex offenders, have been turned down.

Susan Hammond, chair of the Taxicab Board sub-committee on standards, said she is an attorney specializing in transportation law. She said she favors these rules as the prior ones were too vague. Regarding denial of a permit, for instance, the rules used phrases that were not in the statute so a traffic offense was not defined.

Ben Walters, Deputy City Attorney, said when Council approved creation of the Taxicab Board, the existing Taxicab Supervisor's rules became the Board's rules. Those are the ones in place now and have certain standards regarding criminal background and driving records. The Board was also directed by Council to review and improve regulations.

Mayor Katz asked if they were substantive improvements.

Ms. Hammond said no, they proposed looking at the traffic code to see what terms were used and tried to tie offenses to something specifically identified in the law.

Mayor Katz asked if reviewing the 10-year period prior to filing of the application was in the old rules.

Ms. Hammond said no.

Mayor Katz said that is a substantive change.

Ms. Hammond agreed but said the types of violations were not clarified before.

Mayor Katz asked how many drivers would not be able to drive a cab if these rules were adopted because of the 10-year review period.

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Mr. Nelson said zero. The language defines categories of criminal or driving offenses and if applicants have violations, the Taxicab supervisor will work with them to determine their fitness to drive. The new regulations simply add specificity to the old ones.

Mr. Walters said he wrote the memo from the City Attorney referred to earlier; it was in response to an earlier draft and addressed drug testing only, an issue not included in this version.

Ms. Hammond said the prior rules were ambiguous and hard for staff to enforce effectively. The 14-hour day driving rule is extremely lenient, based on her experience in the trucking industry. She said the two larger cab companies indicate they have limits of 10 hours although the two smaller companies wanted no limit. The subcommittee ended up compromising on that issue. In response to a question from Mayor Katz, she said Tri-Met drivers have hour limits, although she did not know exactly what they are.

Mayor Katz asked about those who go home to take a nap or care for their family and then return to work.

Ms. Hammond said the burden is on the companies to regulate their own drivers and have them check in or out. There may also be an affect on insurance rates.

Commissioner Lindberg asked if there was any documentation regarding accident records due to fatigue. Are rules being added that might hurt hundreds of people economically because of a few problem with people falling asleep at the airport.

Ms. Hammond said the committee obtained no information that there had been accidents due to length of hours.

Rick Cordell, Broadway Cab driver, said there is a diversity of opinion on these issues among cab drivers. He said some companies, generally the larger ones, attempt to provide dispatch service throughout the City as well hotel and airport service. Some smaller companies simply operate between the airports and hotels. He personally believes they are trying to skim the cream off the top. Drivers at the airport may wait an hour-and-a-half between trips and try to make a living off a few larger fares. As a driver on the street, he has to hustle his entire 12-hour work day to make a living. It may not be possible to apply the same rules to both categories. Council does not have a responsibility to maximize the earning potentials of those at the top or to guarantee a minimum income to those on the bottom but it does have a responsibility to ensure minimal standards of safety. Public trust is the issue and people should be able to call any cab driver licensed by the

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City knowing that driver can transport them safely.

Mayor Katz said the problem needs to be identified to see if it is real, not one perceived on intuition or opinions. Is there a correlation between the accident rate in Portland and the age of a car or the number of hours someone is on the road.

Mr. Nelson said no, they have relied on national trends and experiences in other industries. There is no documented evidence to show that the current fleet does not provide safe service. They do have anecdotal incidents which cause him concern, such as drivers at the airport who cannot be awakened by shaking. The Board has tried to provide reasonable standards and protection to the citizens that these vehicles and drivers are safe. So it borrowed reasonable standards from other places but did not do its own analysis.

Commissioner Hales asked if employment laws apply to these drivers.

Mr. Nelson said these are independent drivers who lease their vehicles; they are sole proprietors and can work as long as they wish. They are exempt from State law. The cab companies provide liability insurance coverage so they have an incentive not to have unsafe drivers working for them. He said the subcommittee had full participation by cab driver organizations and individual drivers. They also held two lengthy public hearings at which drivers spoke. They can and do fully involve drivers.

Commissioner Kafoury said the Taxicab Board put in many long hours and these are its recommendations.

Mayor Katz said she takes a cab frequently and hears both sides of these issues. The question is whether there is enough of a problem to add more rules and regulations.

Commissioner Blumenauer said a 14-hour limit does not sound unreasonable but questioned how one enforced it unless there is a crash.

Commissioner Kafoury said adding more specifics about what constitutes criminal offense and setting a standard for hours is not out of line. The City is dependent on the cab companies to monitor these regulations but, as long as the City is regulating the industry, there should be standards. She moved to deny the appeal. Commissioner Blumenauer seconded.

Commissioner Lindberg said he supports the regulation regarding criminal records but not the one on hours. Imposition of blanket regulations can pose economic hardships and there has been no documentation to merit this.

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Mayor Katz agreed with Commissioner Lindberg that she could not support the limit on hours because of the lack of documentation. She does support clarification of the criminal record.

Disposition: Standards revised; appeal denied. (Y-3; N-2, Lindberg, Katz)

At 4:45 p.m., Council adjourned.

BARBARA CLARK
Auditor of the City of Portland



By Cay Kershner
Clerk of the Council